

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE: AUTOMOTIVE PARTS  
ANTITRUST LITIGATION

MDL NO. 12-02311

## SETTLEMENT REGARDING NIPPON SEIKI DEFENDANTS

BEFORE THE HONORABLE MARIANNE O. BATTANI  
United States District Judge  
Theodore Levin United States Courthouse  
231 West Lafayette Boulevard  
Detroit, Michigan  
Thursday, May 15, 2014

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1 Detroit, Michigan

2 || Thursday, May 15, 2014

3 at about 11:00 a.m.

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— — —

5 (Court and Counsel present.)

## 6 THE CASE MANAGER: All rise.

10 You may be seated.

11 || The Court calls In Re: Nippon Seiki.

12 THE COURT: Good morning.

13 THE ATTORNEYS: (Collectively) Good morning, Your  
14 Honor.

15 THE COURT: Okay. May I have your appearances,  
16 please?

17 MR. KOHN: Good Morning, Your Honor. For the  
18 direct purchaser plaintiffs, Joseph Kohn, Kohn, Swift & Graf  
19 in Philadelphia.

20 MR. HANSEL: For the direct purchasers also,  
21 Greg Hansel from Preti, Flaherty, Portland, Maine.

22 MR. SPECTOR: Good morning, Your Honor.

23 Eugene Spector on behalf of the direct purchasers, Spector,  
24 Roseman, Philadelphia.

25 MR. KANNER: Good morning, Your Honor. Rounding

1 out the lineup for direct purchasers, my name is Steve Kanner  
2 with Freed, Kanner, London & Millen from Chicago.

3 THE COURT: So nobody, nobody brought us good  
4 weather from all over the country.

5 MR. HERRMANN: Good morning, Your Honor.

6 Fred Herrmann on behalf of Nippon Seiki defendants.

7 MS. DONOVAN: Molly Donovan of Winston & Strawn  
8 also for the Nippon Seiki defendants.

9 MS. LIPSCOMB-JACKSON: Good morning, Your Honor.  
10 Tiffany Lipscomb-Jackson, Jones Day, for the Yazaki entities.

11 MR. SMITH: Good morning, Your Honor. Brian Smith  
12 for Denso Corporation and Denso International America from  
13 Wilmer Hale, Washington D.C.

14 THE COURT: Okay.

15 MR. FINK: And David Fink appearing on behalf of  
16 plaintiffs. Sorry.

17 THE COURT: Okay. Very good. Let me get these  
18 papers in order.

19 We are here today for direct purchasers' motion for  
20 preliminary approval of a proposed settlement. I think I've  
21 got that right. Okay. And, Mr. Kohn?

22 MR. KOHN: Thank you, Your Honor. May it please  
23 the Court, we are the co-lead counsel, and Mr. Fink, liaison  
24 counsel, are very pleased to be here before you today on this  
25 motion for preliminary approval of the settlement with the

1       three Nippon Seiki entity defendants.

2           Initially we do want to thank the Court for  
3 scheduling this as a separate matter and to keep the matter  
4 moving and not waiting for the next regularly-scheduled  
5 conference.

6           THE COURT: Any word settlement gets a real quick  
7 hearing.

8           MR. KOHN: Well, I think all of us are here and  
9 wanted to be here because we do view this as somewhat of a  
10 mile marker in the case or a crossroad. We've certainly  
11 appreciated, I think all counsel, the Court's patience with  
12 the arguments on the Twombly motions and the jurisdictional  
13 motions, but I certainly -- I can say personally I'm pleased  
14 to be here not on a Twombly motion today, and we hope that as  
15 this litigation moves we are here more frequently on motions  
16 for approval of settlements than we are on the Twombly  
17 motions, but that's all part of the process.

18           If I could just --

19           THE COURT: Can I ask you a question?

20           MR. KOHN: Certainly.

21           THE COURT: I was curious and totally ignorant as  
22 to how all of this will come together in the end, but on the  
23 indirect proposed settlement that we did and put on the  
24 record -- when was that?

25           MR. KOHN: February, Your Honor.

1                   THE COURT: February. There was a -- there is a  
2 delay in that in terms of proceeding?

3                   MR. KOHN: Right.

4                   THE COURT: This settlement for the directs has  
5 very specific dates, I know there's a little dispute over the  
6 dates, although I'm not even sure if that was resolved.

7                   MR. KOHN: We have been able to resolve that and we  
8 have a revised --

9                   THE COURT: All right, good, good, but that is the  
10 plan that you will proceed on this -- with this defendant on  
11 this part to do the distribution; is that correct?

12                  MR. KOHN: Yes, yes, Your Honor. So in that sense  
13 this is -- while it completes the settlements of the three  
14 plaintiff groups with respect to the Nippon defendants in the  
15 IPC case, it is progress in that sense that those defendants  
16 will be done finally from that part of the litigation, and  
17 this will be the first of the settlements that is moving  
18 through the final hearing approval process, and there's  
19 simply different issues with respect to the number of class  
20 members in the various classes, the direct purchasers are  
21 fewer than consumers of automobiles, and we would like to get  
22 the finality sooner.

23                  Our proposal at this point is not to have a claim  
24 form and a distribution with respect to IPC; our usual  
25 practice is to wait until there are several settlements or in

1       the best of all worlds the entire case is settled so you can  
2       do the claim process once just for efficiency of sending  
3       checks to the class members.

4           THE COURT: That's what I wanted to know, where the  
5       end result was and if you were going to go over this over and  
6       over and over?

7           MR. KOHN: But the sooner we get done with the one,  
8       then it would certainly be our hope to move either with the  
9       litigation or settlement, and, as Your Honor may be aware, if  
10      there are other things that have been filed in some of the  
11      constituent cases, our plan is the direct purchasers would be  
12      the same with respect to that.

13           So just very briefly for the record, Your Honor,  
14      the first of the direct purchaser IPC complaints was filed in  
15      February of 2012, the amended consolidated complaint was in  
16      January of 2013, and then the settlement of direct purchaser  
17      case was signed on April 4th, so approximately a year and  
18      several months after the consolidated complaint.

19           The standards for preliminary approval we set forth  
20      we think in great detail in our brief, and cited the manual  
21      and recent decisions, including Judge Borman's decisions in  
22      Packaged Ice, that preliminary approval is not the final  
23      approval, you are determining that this is sufficiently  
24      serious and within a realm of reason such that it is  
25      appropriate to send notice to the class, give them the

1 opportunity to withdraw from the settlement if they choose to  
2 register any objection that they might have, and then at the  
3 final hearing is when the Court would make the final  
4 determination to certify a settlement class to decide whether  
5 the settlement is fair, reasonable. And we had also provided  
6 in the notice to notify class members that we would request  
7 the Court's approval to be able to disburse a portion of the  
8 settlement up to, but not exceeding, 20 percent of this  
9 settlement for future litigation expenses going forward.  
10 That's all subject to Your Honor's approval, and we would  
11 brief that. We did cite some cases that have approved those  
12 provisions, and there are many more that we will put in our  
13 briefing for the final hearing.

14 THE COURT: And that 20 percent here is for  
15 expenses, not attorney fees; is that correct?

16 MR. KOHN: Correct, only for the expert costs and  
17 that sort of data, and we provide in the draft notices that  
18 counsel are not seeking any attorney fees at this time.

19 The notice program is also described in the brief,  
20 and we did prepare a schedule which was not filed, all  
21 counsel have reviewed it, just to coordinate because the way  
22 the order was proposed it just talked about numbers of days,  
23 so 60 days from this, and 85 days, so we put it more into a  
24 calendar format.

25 The initial issue that Your Honor had touched on

1       about the dispute, the non-settling defendants did request  
2       some additional time to prepare the list -- the mailing list  
3       of the class members which we have agreed to. Obviously if  
4       we can get those lists sooner we can start the mailing sooner  
5       and build more time into the schedule.

6               We would request, Your Honor, to consider a date  
7       for the final fairness hearing, which we project it could be  
8       as soon as October 27th, which is a Monday, anytime  
9       thereafter at the Court's convenience we think would be  
10       appropriate. Again, these are dates that all counsel have  
11       agreed to, settling defendants as well as the non-settling.  
12       A revised form of the proposed preliminary approval order was  
13       filed by Mr. Fink's office yesterday that incorporated these  
14       date changes from the one that was filed with our brief back  
15       in April.

16               So, you know, we do think we are obviously within  
17       the range of preliminary approval. This is a settlement of  
18       \$5.25 million. It is slightly more than five times the  
19       criminal fine. It is the largest dollar-amount settlement so  
20       far of the settlements with Nippon Seiki. It -- for the same  
21       reasons that the Court granted preliminary approval with  
22       respect to the indirect settlements, looking as these as  
23       icebreaker settlements, there's also significant cooperation  
24       that will be available to us even during the period of the  
25       stay for the Department of Justice, an additional reason, but

1       we believe in terms of the direct-purchaser class that this  
2       is a sum of money that can be approved, can be used to  
3       contribute to the ultimate distribution to those companies  
4       and start to bring both IPC and the broader litigation to a  
5       conclusion.

6                   We would respectfully request Your Honor approve  
7       the order as agreed by all parties and look forward to seeing  
8       you again in June.

9                   THE COURT: Okay. Let me -- just while we are on  
10       dates and I have the calendar open, that October 27th date, I  
11       want to make sure that date is good because that obviously  
12       is --

13                   MR. KOHN: That is a Monday that week.

14                   THE COURT: It is the first day of the conference  
15       in the MDL -- in Florida, I don't remember what that is  
16       called, but it is the first day of that conference, I just  
17       got notice. So I could do it before that if you wanted to  
18       move it up a week or if you wanted to move it forward?

19                   MR. KOHN: I think, Your Honor, there is this  
20       provision in the Class Action Fairness Act, also called CAFA,  
21       that requires a minimum of 90 days from the notice to the  
22       hearing.

23                   THE COURT: Right.

24                   MR. KOHN: We probably could, you know, beat that  
25       if we get the notice out a few days later but why take a

1 chance, so I think maybe the next week would be practical.

2 THE COURT: How about Tuesday, November 4th? I  
3 would ask everyone to look --

4 MR. KOHN: It happens to be election day. I don't  
5 know if that's an issue for some people.

6 THE COURT: Oh, let's not do that just in case it  
7 is a problem for somebody. Okay. We could do November 5th,  
8 November 6th, I mean, I'm pretty free?

9 MR. KOHN: The 5th or 6th would be fine.

10 THE COURT: The 5th would be fine. Okay. Let's do  
11 November 5th then. We will start at 2:00 -- or do you want  
12 to start in the morning?

13 MR. KOHN: I think 11:00 is a good --

14 THE COURT: You want to stick with the 11:00?  
15 Okay.

16 MR. KOHN: Thank you, Your Honor.

17 MR. KANNER: Your Honor, if I might?

18 THE COURT: Yes.

19 MR. KANNER: As I previously indicated,  
20 Steve Kanner on behalf of class plaintiffs.

21 I did, if the Court is interested in a brief update  
22 with respect to the Lear settlement, come prepared to give  
23 you at least a snapshot of what is happening.

24 THE COURT: Okay.

25 MR. KANNER: I think it might be useful to the

1      Court. In fact, the comments about -- the discussion about  
2      the date for final approval on this may work out for us, and  
3      I will tell you why I think it is a possibility.

4              The Lear settlement with all of the three class  
5      groups has, in fact, been submitted to the bankruptcy court,  
6      I believe we advised your offices about the settlement. I  
7      brought a copy, I don't know if the Court has it, but this is  
8      the bankruptcy filing, and being environmentally conscious we  
9      printed it on both sides, it's a hundred and some odd pages.

10             THE COURT: Good.

11             MR. KANNER: I'm happy to submit it to the Court.

12             THE COURT: I would like that. If you would give  
13      it to Molly so I can read it later.

14             MR. KANNER: That has, of course, complete copies  
15      of all the settlement agreements for each of the groups, the  
16      notice, the entire series of documents that would be filed  
17      along with the settlement agreement. There are some dates  
18      which I thought I would advise the Court of.

19             The decision by the bankruptcy court, and we are  
20      optimistic, although I'm a stranger to the labyrinth of  
21      bankruptcy, folks who know a lot more about it --

22             THE COURT: You should be around here, we are all  
23      getting very familiar with it.

24             MR. KANNER: I understand. Fortunately that's not  
25      been my area, but May 27th is the final -- is the date for a

1 decision by the bankruptcy court. As I understand it, there  
2 is a 20-day appeal period beyond that, so that puts us out to  
3 June 16th or 17th, and it is our intention to file the motion  
4 for preliminary approval as soon as we have approval and as  
5 soon as the period for appeal to the bankruptcy court  
6 decision has passed, which would be shortly after June 16th  
7 or 17th.

8 Is it possible if the defendants can put together  
9 the mailing lists a little more quickly, we could possibly do  
10 the same date for final approval hearing on both the Lear and  
11 the Nippon Seiki settlements. And I think from my own  
12 standpoint of judicial economy and our own time and effort it  
13 seems to make sense that if we can do both of them the same  
14 day I certainly would like to strive to accomplish that.

15 THE COURT: Well, that would be wonderful. You  
16 will have to really be on top of it to make sure all the time  
17 periods and the notices, et cetera --

18 MR. KANNER: We may just be able to squeak it in.  
19 If not, you may have the privilege of seeing us a week or two  
20 after that for -- after the Nippon Seiki settlement agreement  
21 to do one more, but I'm going to try my best.

22 THE COURT: Okay. Well, let's try for it and see  
23 if you can do it.

24 MR. KANNER: Exactly, Your Honor.

25 THE COURT: Okay. Thank you.

1                   MR. KANNER: Thank you very much.

2                   THE COURT: As to the defendants on the preliminary  
3 approval --

4                   MR. HERRMANN: It has been --

5                   THE COURT: Oh, just one other thought before we  
6 forget this -- before I forget here, Mr. Kanner.

7                   MR. KANNER: Sure.

8                   THE COURT: Another possibility, if you are talking  
9 about one week, you know, move it up a week or two weeks, you  
10 know, we might move this other settlement -- or fairness  
11 hearing a week or two. It is going to have to be coordinated  
12 because of the notices, but it is possible if you are that  
13 close that you could --

14                  MR. KANNER: I will make that -- we will talk about  
15 that in the next day or two. Mr. Spector made a comment as I  
16 sat down, and I'm sorry, I wasn't directly focusing, that may  
17 actually be very significant over here; we may file our  
18 motion for the defendants to produce the mailing lists  
19 earlier. If we have those mailing lists available we may  
20 just be able to -- I think, in fact, it is much more likely  
21 we can make the deadline, and if they are going to accumulate  
22 the mailing lists anyway I may have that motion set for -- I  
23 believe we are due here in two weeks.

24                  THE COURT: Okay.

25                  MR. KANNER: And that would -- that would push the

1 ball ahead by at least 30 days in which case we have a good  
2 shot at it.

3 THE COURT: All right. So all possibilities but  
4 the aim is to get them together.

5 MR. KANNER: We are going to do everything we can  
6 to move it ahead as quickly as we possibly can.

7 THE COURT: Okay.

8 MR. KANNER: Thank you.

9 MR. HERRMANN: Fred Herrmann, Your Honor, for the  
10 Nippon Seiki defendants. Mr. Kohn accurately presented the  
11 settlement terms and the motion to the Court. We have  
12 nothing further to add, and, of course, have no objection  
13 unless the Court has any questions?

14 THE COURT: No.

15 MR. HERRMANN: Thank you, Your Honor.

16 THE COURT: Okay. Ms. Jackson?

17 MS. LIPSCOMB-JACKSON: Good morning, Your Honor,  
18 Tiffany Lipscomb-Jackson of Jones Day representing Yazaki,  
19 but speaking on behalf of Yazaki and Denso with respect to  
20 the motion for preliminary approval for the IPC case.

21 THE COURT: And I understand that you have -- you  
22 want to make sure that the provisions are in there to allow  
23 you to object to the class cert?

24 MS. LIPSCOMB-JACKSON: Yes, just as we stated with  
25 the end payer and the auto dealer motion for preliminary

1 approval, I think it is paragraph 20 in what is proposed  
2 right now, that is very important to us. And if the Court is  
3 inclined to enter the order as it was submitted by direct  
4 purchasers yesterday then I don't think we have any other  
5 concerns, but to the extent that the Court decided that it  
6 did not want to enter paragraph 20 we would simply ask for  
7 time to build the necessary record to have a fulsome  
8 opposition to class cert?

9 THE COURT: No, I think that paragraph 20 was  
10 agreed to by all of the plaintiffs, and certainly you  
11 requested it, and I think it is fair, it shouldn't hold up  
12 this settlement, this should go forward, but I understand  
13 that you do not want the impact on the definition of class?

14 MS. LIPSCOMB-JACKSON: Correct, Your Honor, and so  
15 that's our only concern. As Mr. Kohn stated, we have come to  
16 terms on the amount of time it takes to pull together the  
17 addresses that they have requested so we are good.

18 THE COURT: Okay. Very good. Very good.

19 MS. LIPSCOMB-JACKSON: Thank you, Your Honor.

20 THE COURT: All right. Anybody else want to say  
21 anything before -- Mr. Fink?

22 MR. FINK: Not on this motion, I just wanted to  
23 make a comment when we were done with this proceeding.

24 THE COURT: I just want to put a few remarks on the  
25 record so it is on the record that I approve this because I

1      do approve it. Certainly in these motions the plaintiffs ask  
2      for this preliminary approval for a provisional approval of  
3      the settlement class, for dissemination of a notice of the  
4      proceedings against Nippon, and authorization to provide  
5      notice of the settlement agreement to class members at a  
6      later date in a form and manner to be approved in advance,  
7      and appointment of ACap as settlement class representative  
8      and interim co-lead class counsel as settlement class  
9      counsel.

10            We know that Yazaki and Denso, while they might not  
11      be entitled to object, they have -- they filed a response and  
12      we have already put that on the record, so I don't need to go  
13      over that.

14            The first thing is should the Court grant the  
15      preliminary approval of the proposed settlement. We know  
16      that the settlement provides for a guaranteed cash recovery  
17      of \$5.25 million, I believe, plus accrued interest, and  
18      Nippon Seiki will pay the money into an interest-bearing  
19      escrow account.

20            I did want one other -- I have one other question  
21      here, this account versus the account on the indirects is a  
22      separate --

23            MR. KOHN: Yes, Your Honor, these are separate  
24      classes, separate accounts, structured in a similar manner  
25      but separate.

1                   THE COURT: Thank you. I just wanted to be sure  
2 about that. This amount is far greater than the \$1 million  
3 fine paid for defendant's involvement in the price fixing,  
4 Defendant Nippon Seiki's involvement.

5                   And the governing standard here under 23(e)(2) is  
6 that the settlement must be fair, reasonable and adequate.  
7 The Court considers whether the proposed settlement falls  
8 within the range of possible approval. In reviewing this  
9 matter the first step here is the preliminary prenotification  
10 hearing to determine whether the proposed settlement is  
11 within the range of possible approval.

12                  Here based on the information that has already been  
13 presented to the Court as well as the motion and briefs  
14 relating to the IPCs, the Court finds the proposed settlement  
15 deserves preliminary approval.

16                  Factors favoring settlement show in this Court's  
17 opinion that the result appears fair and reasonable and  
18 adequate in light of the expense, duration and uncertainty of  
19 the continued litigation. The claims here I know are complex  
20 and the issues are numerous. The defendants are foreign  
21 parties so it certainly makes discovery a little more  
22 complicated.

23                  Appeal is more -- is more certain, of course, in  
24 the absence of the settlement and the requirement -- the  
25 agreement requires immediate and substantial cooperation. I

1      I think that's an important part of this settlement given the  
2      amount that you get the cooperation of the defendant, Nippon.

3              And I also believe that the negotiations involved  
4      arm-length negotiations by experienced counsel, and I say  
5      here for the record, and I know it is certainly a factor, is  
6      that the Court give weight to experienced counsel, I know the  
7      backgrounds of counsel, I feel very confident in counsel and  
8      their abilities to handle these matters and therefore I feel  
9      that that gives much credit and credibility to the proposed  
10     settlement.

11              The time table for the notices I think is fair and  
12     you have resolved that so I have no problems with that.

13              In terms of the request to allow 20 percent of the  
14     settlement fund to be used for litigation expenses, I think  
15     that's fair. The Court is well aware of the time that the  
16     attorneys have put in -- plaintiffs' attorneys at least, and  
17     I'm sure the defendants' attorneys, but I get their billings  
18     so -- and I know what their billings are and how much has  
19     gone into this, and I know they have their own fund, so I  
20     think it is perfectly reasonable to allow 20 percent, I think  
21     that percentage is a reasonable amount.

22              The next issue is whether the proposed settlement  
23     class should be provisionally certified under Rule 23. I'm  
24     going to briefly just go over those factors.

25              Numerosity: We know that there are many plaintiffs

1 and the class contains so many members that joinder would be  
2 impracticable, also they are throughout the United States.

3 The questions of law or fact are common to the  
4 class, so there certainly is commonality. Antitrust  
5 price-fixing conspiracy cases by their nature deal with  
6 common legal and factual questions about the existence, scope  
7 and effect of the alleged conspiracy. And there are a number  
8 of factors which I'm not going to repeat, I think that it  
9 is -- it is very clear that there is a commonality here.

10 Also, typicality; the proposed class representative  
11 can satisfy this requirement or this prerequisite if its  
12 claim arises from the same event or practice that gives rise  
13 to the claim of other class members. Here the Court is  
14 satisfied that the individual plaintiffs' injury arises from  
15 the same wrong that is alleged as injuring the class as a  
16 whole.

17 In terms of adequacy of representation, the Court  
18 must be assured, and in this case certainly feels assured,  
19 that the representative parties will fairly and adequately  
20 protect the interest of the class, that is the named  
21 plaintiffs would represent the class, and there's not a  
22 conflict amongst them, and the other thing is the adequacy of  
23 class counsel representation. Well, we know here that ACap,  
24 at least the Court finds, will fairly and adequately protect  
25 the interest of the class because it has the same interest as

1 other class members. Accordingly, the Court finds that the  
2 plaintiffs are adequate class representative and that their  
3 counsel, I have already indicated the Court has confidence in  
4 the counsel because I know their background and because they  
5 have been here practicing extensively in this action, and I  
6 find it to be very good representation.

7 So because rule -- another rule is that the  
8 requirement of 23(b) (3), that punitive class plaintiffs  
9 demonstrate the common questions predominate over questions  
10 affecting only individual members, and that class resolution  
11 is superior to other methods for the fair and efficient  
12 adjudication of the controversy.

13 Here the claim involves a single global conspiracy  
14 from which all proposed class members' injuries arise, and  
15 this suggests the existence of shared issues relative to the  
16 scope of the conspiracy, the market, the aggregate amount of  
17 damages, et cetera. Evidence shows a violation as to one  
18 settlement class member is common to the class and will  
19 provide violation to all.

20 So I find that there are the common issues, that a  
21 class action is the superior method to adjudicate these  
22 claims, and therefore for purposes of the proposed settlement  
23 only the Court, pending final approval of the proposed  
24 settlement after the final fairness hearing, that the  
25 prerequisites of a class action under Rule 23 have been met.

1           I think I covered all the points but if I didn't I  
2 want to make sure they are on the record. Is there anything  
3 else anybody wants to add?

4           MR. KOHN: Not from our perspective, Your Honor. I  
5 think you did cover everything.

6           THE COURT: Anything from defense?

7           MR. HERRMANN: Nothing to add, Your Honor.

8           THE COURT: All right. Thank you very much. The  
9 Court will approve the proposed preliminary settlement and I  
10 will sign the order that was entered just yesterday. I know  
11 I have an older copy, but I will do the one with the updated  
12 dates.

13           Mr. Fink?

14           MR. FINK: Your Honor, we are done with the  
15 business that's on the agenda, right?

16           THE COURT: We are.

17           MR. FINK: Your Honor, I just want to say that by  
18 the time that we come back to this Court, which is June 4th,  
19 most, if not everyone, in the Court is aware there will be  
20 one very significant change.

21           THE COURT: True.

22           MR. FINK: And that is the startling and  
23 well-deserved retirement of your case manager, Bernadette.  
24 Most of us were dumbfounded when we got the word that she had  
25 worked for 40 years in this building suggesting that the

1 child labor laws were violated when she was hired.

2                   And I have to say that in this process, in this  
3 case -- these cases in particular, her patience, her skill,  
4 her good sense of humor through all the absurdity of what she  
5 has had to deal with the attorneys as we try to move  
6 consistent with the rules and procedures of this Court and  
7 yet still move along in a friendly and cooperative way, it is  
8 astonishing what she has been able to do. We are all -- when  
9 I say all, everyone on the defendants' and plaintiffs' side,  
10 while we are saddened that she is leaving, we all -- I know  
11 they all join me in wishing her well in her retirement and it  
12 is our great loss but she obviously deserves this and we will  
13 miss her sorely.

14                   THE COURT: Thank you.

15                   MR. HERMANN: Hear, hear.

16                   THE COURT: Thank you.

17                   THE CASE MANAGER: It takes David Fink for me to  
18 cry. I thank you so much. It has been a pleasure working  
19 with all of you and I will miss you too. Thank you.

20                   THE COURT: Bernie almost changed her mind today  
21 about retiring as she came back and said oh, I will miss  
22 these attorneys, they are all so good.

23                   THE CASE MANAGER: It's true.

24                   THE COURT: So you have -- I appreciate Bernie, the  
25 greatest loss is, of course, we are going to miss her here

1 terribly. With the 40 years of experience, I mean, that was  
2 from the cradle to the court, I don't know why but she did  
3 that, she knows everything so -- she knows everyone, and that  
4 has been an invaluable asset to me personally and to our  
5 chambers, so we will miss her too.

6 We are going to formally say goodbye on Monday, the  
7 19th, we are having a little party here. If any of you are  
8 around you are welcome.

9 I want to say something else, I think it is a  
10 credit to you. And, you know, many of you I have heard your  
11 names just in class-action discussions, you know, your names  
12 pop up, and it was very exciting to me to actually come and  
13 have an opportunity to see you in action, but I think that  
14 your professionalism is exhibited dramatically in this  
15 action. I'm sure you do it in every action but I only have  
16 this, and as you know, this is the first MDL I have had, and  
17 I have just been absolutely amazed at what you have all done.  
18 I wish your attorney fees weren't so high.

19 MR. FINK: We wish they weren't so low.

20 THE COURT: But I thank you very much. I will see  
21 you on the 4th. I think we just sent out notice for agenda  
22 items went out --

23 THE CASE MANAGER: It will, Judge, it has not yet  
24 but it will. I did mention to them it is going out today.

25 MS. LIPSCOMB-JACKSON: Can I make one point? I

1      I hate to come in after all of those great speeches and say  
2      something that is not so uplifting, although I agree with  
3      everything that was said.

4              I just want to make the point, and I'm speaking  
5      only on behalf of Yazaki at this time, with respect to the  
6      Lear settlement and the customer list, it would certainly not  
7      be our position that it is going to be the same list that is  
8      generated with respect to the IPC case, and so I just want to  
9      clarify to the extent Mr. Kanner's statements could have been  
10     interpreted to mean that. That was my only piece. Thank  
11     you.

12             MR. KANNER: They weren't. Different product, Your  
13     Honor, I was just hoping to get the process started a little  
14     earlier, that's all.

15             THE COURT: Okay. Well, there may be an  
16     interesting motion coming up, we will see. Okay. Thank you  
17     all very much.

18             THE ATTORNEYS: (Collectively) Thank you, Your  
19     Honor.

20             (Proceedings concluded at 11:31 a.m.)

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## CERTIFICATION

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3 I, Robert L. Smith, Official Court Reporter of  
4 the United States District Court, Eastern District of  
5 Michigan, appointed pursuant to the provisions of Title 28,  
6 United States Code, Section 753, do hereby certify that the  
7 foregoing pages comprise a full, true and correct transcript  
8 taken in the matter of AUTOMOTIVE PARTS ANTITRUST LITIGATION,  
9 Case No. 12-2311, on Thursday, May 15, 2014.

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*s/Robert L. Smith*  
Robert L. Smith, RPR, CSR 5098  
Federal Official Court Reporter  
United States District Court  
Eastern District of Michigan

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Date: 06/03/2014

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Detroit, Michigan

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